

REMARKS

Claims 1-7 are pending in this application. Claims 1-4 and 7 have been withdrawn from consideration.

Claim 5 stands rejected under 35 USC 102(b) as anticipated by Yuhara U.S. Patent No. 6,283,129 and claims 5 and 6 stand rejected under 35 USC 103(a) over Kang U.S. Patent No. 5,022,529 in view of Yuhara. Applicant respectfully traverses these rejections.

Claim 5 recites a cosmetic container comprising a container section, a lid section for opening and closing the cosmetic container, a replaceable cover replaceably attached on, and covering, the lid section, a through-hole formed in the lid section so as to extend toward the replaceable cover, an engaging member formed to protrude into the through-hole, a handle formed in the replaceable cover and extending through the through-hole to be exposed in the lid section, and a coacting member formed on the handle and releasably engaging the engaging member.

The same combination of elements is neither disclosed nor suggested by Yuhara or Kang, viewed alone or in combination.

The Advisory Action states that “Yuhara and Kang clearly teach a cover that replacably attaches to a lid (i.e., from an opened position to a closed position).” The reasoning in the Advisory Action appears to be that a cover that is replacably attached to a lid is replacably attached because it can move from an open to a closed position. Applicant respectfully disagrees. When read as part of the entire claimed combination, the claim language does not allow for that interpretation, even in a very broad sense. Thus, the application of the cited references appears to be incorrect.

Applicant again notes that the Yuhara reference discloses a cover 16 pivotally hinged with the case body 12 for opening and closing the case body. Yuhara does not disclose or suggest the claimed replaceable cover replaceably attached on, and covering, the lid section. Indeed, there is no replaceable cover disclosed by Yuhara. “Replaceable” does not have an

ordinary meaning of moving from an opened position to a closed position when a structure, such as a hinge, does not allow the cover being moved to be removed, i.e., Yuhara's cover 16 cannot be "replaceably attached on" when a hinge does not allow it to be removed.

Consequently, Yuhara is unable to provide the advantages of the present invention, namely a cosmetic container with a decorative part that does not inadvertently peel off or come off a container section or a lid section, and that can give the user greater freedom of choice in the selection of its outer appearance.

To anticipate a claim, the reference must teach every element of the claim. MPEP 2131. The standard for the anticipation analysis is that "[e]very element of the claimed invention must be literally present, arranged as in the claim. . . . The identical invention must be shown in as complete detail as is contained in the patent claim." *Richardson v. Suzuki Motor Co., Ltd.*, 868 F.2d 1226, 1236 (Fed. Cir. 1983). Since Yuhara fails to teach every element of claim 5, it fails to anticipate claim 5. Accordingly, the rejection of claim 5 should be withdrawn.

As previously discussed regarding Kang's disclosure, Kang is limited to a casing that cannot be easily disjointed (see col. 2, lines 13-17). Thus, Kang's casing is also not "replaceable" in the ordinary meaning of the term. Since the combination of Kang and Yuhara does not result in the claimed combination, the obviousness rejection of claims 5 and 6 should be withdrawn.

In view of the above, each of the pending claims in this application is in condition for allowance. Accordingly, applicant solicits early action in the form of a Notice of Allowance. The undersigned will be in further contact with the Examiner to discuss the outstanding rejections.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing Docket No. **371312001900**.

Respectfully submitted,

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